

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

UNITED STATES,

Plaintiff,

vs.

REGINALD DUNLAP,

Defendant.

2:08-CR-00283-RCJ

**ORDER**

Defendant Dunlap filed a letter seeking compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A) premised upon his fear of contracting COVID-19. (ECF No. 1227.) The Federal Public Defender's Office declined to supplement Defendant's letter. (ECF No. 1228.) The Court should strike any filing that is not "styled as a motion, stipulation, or notice." LR-IA 7-1. The Court therefore strikes the letter.

The Court further notes that it would decline to grant the requested relief for at least two additional reasons: First, Defendant has not shown that he has exhausted a motion for compassionate release with the Bureau of Prisons. *United States v. Keller*, 2 F.4th 1278, 1282 (9th Cir. 2021) ("[W]e hold that § 3582(c)(1)(A)'s administrative exhaustion requirement imposes a mandatory claim-processing rule that must be enforced when properly invoked.") Second, Defendant fails to

1 present extraordinary and compelling circumstances since he has been offered the Moderna vac-  
2 cine against COVID-19 and refused it. (ECF No. 1240.) This Court holds, in accordance with the  
3 vast majority of courts, that if an inmate has been offered a vaccine against COVID-19, this cuts  
4 heavily against finding extraordinary and compelling circumstances. *See, e.g., United States v.*  
5 *Baeza-Vargas*, 2021 WL 1250349, at \*2-3 (D. Ariz. Apr. 5, 2021) (Teilborg, J.) (“Judges of this  
6 Court, as well as others around the country, have ruled with consistency that an inmate’s denial of  
7 a COVID-19 vaccination weighs against a finding of extraordinary and compelling circum-  
8 stances.”) (collecting cases).

9 Additionally, the Government has twice presented medical records of Defendant. (ECF  
10 Nos. 1230, 1241.) The Government moves to seal these exhibits. (ECF Nos. 1231, 1240.) The  
11 Court grants these motions.

12 Lastly, the Government moves to supplement the record to apprise the Court of Defend-  
13 ant’s refusal of the vaccine. (ECF No. 1239.) The Court grants this motion as well.

#### 14 CONCLUSION

15 IT IS HEREBY ORDERED that Defendant’s Letter (ECF No. 1227) is STRICKEN.

16 IT IS FURTHER ORDERED that the Government’s Motion to Seal (ECF No. 1231) is  
17 GRANTED.

18 IT IS FURTHER ORDERED that the Government’s Motion to Supplement (ECF No.  
19 1239) is GRANTED.

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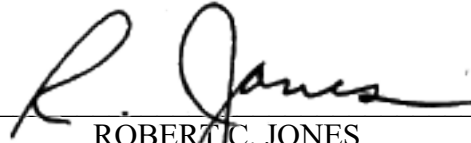
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1 IT IS FURTHER ORDERED that the Government's Motion to Seal (ECF No. 1240) is  
2 GRANTED.

3 IT IS FURTHER ORDERED that Exhibits (ECF Nos. 1230, 1241) shall remain SEALED.

4 IT IS SO ORDERED.

5 Dated March 2, 2022.

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8 ROBERT C. JONES  
9 United States District Judge  
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